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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,424	04/15/2004	Douglas Willard	6450-03	6505

58388 7590 03/07/2006

GOWAN INTELLECTUAL PROPERTY  
1075 NORTH SERVICE ROAD WEST  
SUITE 203  
OAKVILLE, ON L6M-2G2  
CANADA

EXAMINER
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PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,424	<b>Applicant(s)</b> WILLARD, DOUGLAS	
	<b>Examiner</b> David J. Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12-12-05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8-12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,8-12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12-12-05 has been entered.

This action is in response to applicant's amendment dated 12-12-05 and this action is non-final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-5, 7, 10-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,460,306 to Rudd in view of U.S. Patent No. 6,089,524 to Lai.

Referring to claim 1, Rudd discloses a fishing rod support comprising, a restriction member – at 11, being a substantially vertical elongated member – see for example figures 1-5,

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having a vertical longitudinal axis and a vertical opening – at 15, 17 and proximate 15, from one end of the member and extending substantially along the vertical axis – see for example figures 1-5, which vertical opening is configured to receive a rod portion of a fishing rod – see for example the reel and items 30 and R in figure 1, so that a longitudinal axis of the rod portion – at the shaft portion at 30 as seen in figure 2, is substantially perpendicular to the vertical axis – see for example figures 1-6, and the vertical opening substantially limits rotational movement of the rod portion about the vertical axis – see for example figures 1-5, a retaining member – at 12, co-axial to and operatively coupled to the restriction member – see for example figures 1-5, so that the retaining member slides along the vertical axis of the restriction member – see for example figures 1-5, and having a wall section which defines a horizontal opening – see at 16, 18, along the side of the retaining member – see for example figures 1-5, wherein the retaining member is relatively movable between a substantially closed position in which the restriction member blocks the horizontal opening and prevents access to the vertical opening through the horizontal opening – see for example figure 5, and an open position in which the restriction member does not block the horizontal opening so that access to the vertical opening through the horizontal opening is available – see for example figure 4, and wherein the retaining member is normally biased to the closed position and movement of the rod portion along the vertical axis and in a direction perpendicular to the longitudinal axis of the rod portion moves the retaining member from the closed position to the open position whereby substantially uninhibited removal of the fishing rod from the vertical opening through the horizontal opening and thus from the fishing rod support is possible – see for example figures 1-5. Rudd does not disclose upward vertical movement of the rod portion moves the retaining member from the closed position to the open

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position. Lai does disclose upward vertical movement of the rod portion – at 4, moves the retaining member – at 3, from the closed position – see figure 3 to the open position – see figure 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Rudd and add the upward movement of the rod to cause the retaining member to move to the open position of Lai, so as to allow for the rod to be easily removable and insertable into the support device.

Referring to claim 2, Rudd as modified by Lai further discloses the restriction member comprises at least one substantially vertically aligned rod guide – see for example at 15 and the interior of 11 in figures 1-5 of Rudd.

Referring to claim 4, Rudd as modified by Lai further discloses the retaining member is substantially tubular – see for example at 12 in figures 1-5 of Rudd.

Referring to claim 5, Rudd as modified by Lai further discloses the restriction member is substantially tubular – see for example at 11 in figures 1-5 of Rudd.

Referring to claim 7, Rudd as modified by Lai further discloses a body portion – at 21, operatively coupled to the restriction member – at 11 – see for example figures 1-5 of Rudd.

Referring to claim 10, Rudd as modified by Lai further discloses the support further comprises a mount – at F as seen in figure 1 of Rudd.

Referring to claim 11, Rudd as modified by Lai further discloses a pocket – see inside item 11 in figures 1-5 of Rudd, for receiving a fishing rod handle – see figures 5-7 of Rudd, wherein the pocket is substantially aligned with a pocket axis and wherein the pocket axis forms an angle of deflection with the vertical – see for example figures 1-5 of Rudd, wherein the body of the support further comprises a neck portion – see at 11, 12 in figures 1-5 of Rudd, and

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wherein the neck portion forms an angle which is substantially supplementary to the angle of deflection – see for example figures 1-5 of Rudd.

Referring to claim 12, Rudd as modified by Lai further discloses the mount – at F, is configured to engage the pocket – see for example figure 1 of Rudd.

Referring to claim 14, Rudd as modified by Lai further discloses the substantially vertically aligned rod guide is a substantially vertical slot – see for example at 15 in figures 1-5 of Rudd.

Referring to claim 15, Rudd as modified by Lai does not disclose the vertical opening is a V-shaped slot extending from one end of the restriction member. However, changing a shape over that of the prior art does not overcome the prior art in that it would have been obvious to one of ordinary skill in the art to take the device of Rudd as modified by Lai and add the opening being v-shaped, so as to allow for the fishing rod to be securely held into the device and to allow easy insertion and removal of the fishing rod from the device.

Referring to claim 16, Rudd as modified by Lai further discloses the horizontal opening – proximate 3 of Lai, is defined so as to have an upwardly angled upper surface – see for example figures 2-5 of Lai, so that the rod portion – at 4, slides upwards and outwards when exiting the restriction member – at 2 – see for example figures 2-5 of Lai.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudd as modified by Lai as applied to claim 1 above, and further in view of U.S. Patent No. 4,656,774 to Terrill.

Referring to claim 8, Rudd as modified by Lai does not disclose a ground engager configured to releasably secure the support to the ground. Terrill does disclose a ground engager

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– at 14,16, configured to releasably secure the support to the ground – see for example figure 1.

Therefore it would have been obvious to one of ordinary skill in the art to take the device of Rudd as modified by Lai and add the ground engager of Terrill, so as to allow for the device to be securely held to the ground while allowing for the device to be easily removed from the ground.

Referring to claim 9, Rudd as modified by Lai and Terrill further discloses the ground engager is an auger bit – at 14,16 – see for example figure 1 of Terrill.

### *Response to Arguments*

3. Regarding claim 1, the Rudd reference US 5460306 discloses a rod portion – at pin portion 30, connected to the fishing rod shaft as seen in figures 2 and 6-7, extends perpendicularly from the fishing rod shaft and the rod holder – at 11-12, and extends from the vertically oriented longitudinal axes of the fishing rod shaft and rod holder as seen in figures 2 and 6-7. Further, the pin – at item 30, is deemed a rod portion of the fishing rod in that it is a rod in shape as seen in figure 2 and it is part of the fishing rod in that it is connected directly to the fishing rod assembly as seen in figures 6-7. Further, the rod portion – at the pin – at item 30 of the Rudd reference is moved vertically in the slot – at 15 and 16, along the vertical axis of the holder – at 11-12, and in a direction being the vertical direction which is perpendicular to the horizontally oriented rod – at 30 as seen in figures 2 and 6-7, to allow for the entire fishing rod assembly to be moved out of the holder – at 11-12, through the open top portion of the slots – at 15,16 as seen in figures 1-2 and 6-7. Further, the Lai reference US 6089524 is used to disclose

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movement of the cylindrical holder device – at 2-3, in a vertical direction allows for the retaining member to be moved into an open and closed orientation as seen in figure 3 (closed) to figure 5 (open). The Lai reference is not used to disclose the orientation of the fishing rod portion to the fishing rod holder assembly. Further, in the open position of figure 5 of the Lai reference the fishing rod – at 4, is perpendicular to the rod holder device – at 2. Therefore, the Rudd and Lai references have similar structure, having two cylindrical elements formed into a housing to support fishing rods, with similar functions being holding and supporting fishing rods and being similarly operated in that the cylindrical sections of the housings are moved to allow for the fishing rod to be moved into and out of the rod holders. Therefore, because of the similar structures, similar functions and operations of the Rudd and Lai devices it is deemed that the combination of these references is proper given the motivation provided above in paragraph 2 of this office action. Further, the term “rod portion” is deemed a broad term and therefore any rod that is part of the fishing rod assembly such as the rod – at 30 of the Rudd reference is deemed a fishing rod portion. Further, the Lai reference discloses pulling upward on the holder device – at 3, allows for the fishing rod to be moved into a position perpendicular to the rod portion – at 2 so that the fishing rod can be moved into and out of the holder as seen in the open space between items 2 and 3 as seen in figure 5 in view of the closed position of items 2-3 in figure 3. Therefore applicant's arguments are not persuasive.

Regarding the rejections to claims 8-9, under Rudd in view of Lai and Terrill US 4656774 applicant relies upon the arguments to independent claim 1, therefore see the response to these arguments above in this paragraph of this office action.



*Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643